

AN ACT

ENTITLED, An Act to impose a sales and use tax on mobile telecommunications services and to implement the federal uniform and simplified sourcing rules for mobile telecommunications services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as follows:

There is hereby imposed a tax of four percent upon the gross receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as follows:

There is hereby imposed a tax of four percent upon the privilege of the use of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

Section 3. That subdivision (7) of § 34-45-1 be amended to read as follows:

- (7) "911 emergency surcharge," any charge set by the governing body and assessed on each local exchange access line which physically terminates within the governing body's

designated 911 service area. For a mobile telecommunications service, the term, 911 emergency surcharge, means any charge set by the governing body and assessed per cellular telephone identified within the governing body's designated 911 service area as determined by the customer's place of primary use as defined in 4 U.S.C. § 124 as in effect on July 28, 2000. Notwithstanding any other provision of this chapter and for purposes of the surcharge imposed by this chapter, the surcharge imposed upon mobile telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000;

Section 4. That § 49-31-51 be amended to read as follows:

49-31-51. There is hereby imposed an access fee of fifteen cents per local exchange service line per month, fifteen cents per cellular telephone per month in accordance with the provisions provided in subdivision 34-45-1(7), and fifteen cents per radio pager device per month to pay for the program established in § 49-31-47. The access fee shall be paid by each local exchange subscriber to a local exchange service, or by each cellular telephone or radio pager service subscriber to the service provider, unless the subscriber is otherwise exempt from taxation. The access fee shall be reported as a separate line or service and collected on the regular monthly bill by each local exchange telecommunications company or other service provider operating in this state. On or before the last day of the month following each two-month period, every telecommunications company providing local exchange service or other service provided specified in this section shall remit to the Department of Revenue on forms furnished by the department the amount of the access fee collected for that two-month period. The secretary of revenue may grant an extension of not more than five days for filing a remittance. The Department of Revenue shall deposit ninety percent of the money received under §§ 49-31-47 to 49-31-56, inclusive, into the telecommunication fund for the deaf and ten percent in the telecommunication fund for other disabilities.

Section 5. That § 10-45-6.1 be amended to read as follows:

10-45-6.1. Except as provided in section 1 of this Act, there is hereby imposed on amounts paid for local telephone services, toll telephone services, and teletypewriter services, a tax of four percent of the amount so paid. The taxes imposed by this section shall be paid by the person paying for the services. If a bill is rendered the taxpayer for local telephone service or toll telephone service, the amount on which the tax with respect to such services shall be based shall be the sum of all charges for such services included in the bill; except that if a person who renders the bill groups individual items for purposes of rendering the bill and computing the tax, then the amount on which the tax for each such group shall be based shall be the sum of all items within that group, and the tax on the remaining items not included in any such group shall be based on the charge for each item separately. If the tax imposed by this section with respect to toll telephone service is paid by inserting coins in coin operated telephones, the tax shall be computed to the nearest multiple of five cents, except that, where the tax is midway between multiples of five cents, the next higher multiple shall apply. The tax so paid shall be remitted at the same time as the sales tax imposed by this chapter.

Section 6. The provisions of this Act apply to any customer bill issued on or after August 1, 2002.

An Act to impose a sales and use tax on mobile telecommunications services and to implement the federal uniform and simplified sourcing rules for mobile telecommunications services.

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I certify that the attached Act
originated in the

SENATE as Bill No. 36

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 36
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State